IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2866 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE H.K.RATHOD

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

@

RD KOTAK

Versus

STATE TRANSPORT CORPORATION

Appearance:

1. Special Civil Application No. 2866 of 1999

MS KSHMA V SHETH for Petitioner No. 1

MRS VASAVDATTA BHATT for Respondent No. 1

CORAM : MR.JUSTICE H.K.RATHOD

Date of decision: 01/05/2002

ORAL JUDGEMENT

Heard learned advocate Ms. Sheth for the petitioner and Ms. Bhatt for the respondent corporation. The petitioner herein was working as driver and he was suffering from the disease and ultimately he was declared

unfit by the civil surgeon and ultimately, his services were terminated by the corporation which action was challenged before the labour court by filing reference NO. 2125 of 1988 newly numbered as Reference No. 1438 of 1990 wherein the labour court has made award on 11th June, 1998 and has refused to grant relief of reinstatement and has granted compensation of Rs.15,000.00 to the petitioner. Before the labour court, the petitioner had filed purshis Exh. 37 and has, thereby, foregone the claim of back wages for the intervening period. NO oral evidence was led by the petitioner and respondent corporation before the labour court. No documentary evidence has been produced by the corporation before the labour court. Therefore, the labour court was unable to ascertain whether any alternative post is available or not. The petitioner's services were terminated as unfit on 28th April, 1988 and he reached the age of superannuation on 31st August, 1996. I have perused the award in question. In view of the fact that there was no evidence available on record to ascertain whether any alternative post is available or not, the labour court thought it fit to grant some compensation to the petitioner and has also quantified the same at Rs.15,000.00. Learned advocate Bhatt for the corporation has submitted that the amount of compensation as awarded by the labour court has already been paid to the respondent by the corporation vide cheque No. 2682574 dated 27.11.99. The second aspect is that the petitioner has already reached the age of superannuation on 31st August, 1996 and, therefore, in view of these facts, according to my opinion, the labour court has not committed any error in granting such relief and the award in question has fully been complied with by the corporation and, therefore, there is no substance in this petition. Hence the same is dismissed as having no substance. Rule is discharged. There shall be no order as to costs.

Learned advocate Ms. Sheth for the petitioner has submitted that now the petitioner has already reached the age of superannuation but no retirement benefits have been paid to the petitioner till this date by the corporation and, therefore, she has requested for issuing some suitable directions to the corporation to make payment of retirement benefits to the petitioner within some reasonable period.

Considering the submissions made by Ms. Sheth, it is directed to the corporation that considering the date of retirement of the petitioner, whatever benefits available to the petitioner workman, same shall be paid

by the corporation to the petitioner within two months from the date of receipt of copy of this order.

1.5.2002. (H.K. Rathod,J.)

Vyas